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Letter dated 17 August 2011 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Despite our conviction and knowledge that reports on the human rights situation are considered within the appropriate forum of human rights that is the Human Rights Council in Geneva, and in the light of the briefing by the United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay, on the human rights situation in South Kordofan, I have the honour to enclose herewith a document containing the comments of the Government of the Sudan on the preliminary report on violations of international human rights and humanitarian law in South Kordofan from 5 to 30 June 2011 (see annex).

I have further the honour to request you to circulate the enclosed document as a document of the Security Council.

(*Signed*) Daffa-Alla Elhag Ali **Osman**
Permanent Representative

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Annex to the letter dated 17 August 2011 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Comments of the Government of the Sudan on the thirteenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan, entitled "Preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011"

Introduction and general observations

1. First of all, the Government of the Sudan would like to point out that the thirteenth periodic report of the United Nations High Commissioner for Human Rights was entitled "Preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011" without mentioning "allegations", although the report contains mere undocumented testimonies and observations that cannot be considered as "violations", which indicates that the contents of the report are just a conclusion and a presumed final result of recent incidents that took place in the area during the mentioned time frame.

2. The report mentioned violations of international human rights law and humanitarian law that took place during the armed conflict between the Sudanese Armed Forces (SAF) and the so-called "militias affiliated to SAF" and the Sudan People's Liberation Movement (SPLM) in South Kordofan from 5 to 30 June 2011. It is worth mentioning in principle that a report describing the situation of human rights during armed conflict cannot attribute all the violations to one party of the conflict and exclude the other. The report rarely pointed out violations committed by the Sudan People's Liberation Army (SPLA). Surprisingly, the party that started the fighting inside the towns and caused the death of civilians was not blamed for these violations. This indicates double standards even when it comes to determining victims and aggressors.

3. This selective approach throughout the report contradicts all United Nations standards governing the monitoring of human rights situations, as well as the code of conduct of United Nations officers and human rights officers in the United Nations field offices.

4. The report mentions in the background paragraph that marginalization by the Government of the Sudan of the Nuba led them to join the SPLA. The report is based on a book by Alex de Waal and Yoanes Ajawin, published in London in 1995 entitled *Facing Genocide: The Nuba of Sudan*. This book reflects the political views of the writers, but it is unacceptable for the Office of the United Nations High Commissioner for Human Rights (OHCHR) to base its report on this book and use it as a reference. This leads to a determination of the victims and the aggressors at the beginning of the report and to ignoring and remaining silent with regard to all the violations committed by the alleged victim (SPLA).

5. The marginalization of the Nuba mentioned throughout the report was not true. The Nuba are well represented in all official institutions of the State, at all grades

and levels. In addition, their presence is not confined to this geographic part of the Sudan, they are present throughout the Sudan and they have never complained of marginalization during the previous Governments. Reference to marginalization is misleading and leads to escalating ethnic tensions and racism, which is prohibited by all the human rights standards.

6. The report referred to alleged large-scale violations in a way that cannot even be considered as a source of information, and concludes at the end of the paragraph by stating that this information was not verified, a method that lacks honesty and professionalism in preparing such reports.

7. During the reporting period, the Government of the Sudan, as will be indicated later, spared no efforts to provide the affected populations with rescue equipment and humanitarian assistance, but these efforts were not reflected in the report.

8. Although the report alleged that those who prepared the report met with officials in a number of institutions, including federal and state government authorities, it fails to mention all the measures taken by federal and state government authorities to overcome the impact of the incidents.

Background and alleged violations of international humanitarian law and human rights law (paras. 4-25)

9. This part of the report is full of fabricated allegations that contradict basic facts when it comes to the places, timing and dates on which incidents took place, in addition to false quotations from the comprehensive peace agreement and ignorance of the administrative system of South Kordofan, although the United Nations Mission in the Sudan (UNMIS) had been present in South Kordofan for six years.

10. The report provides information allegedly collected through field visits, interviews with victims and witnesses, meetings with politicians, religious and local leaders, internally displaced persons, UNMIS staff, members of voluntary organizations and some media sources, it is still inaccurate (as will be pointed out in some examples), which directly affect the credibility of the report.

11. Examples of the fabricated allegations:

(a) Fighting inside Kadugli did not start on 5 June 2011 as alleged in the report, but started outside Kadugli when the SPLA attacked the SAF on that same day in the Um Dorein area 35 km east of Kadugli at 8.15 a.m. (para. 14);

(b) There is no locality called Um Battah (para. 16). Um Battah is a neighbourhood in Kadugli and there is no military area with that name;

(c) The Joint Integrated Units were established according to provisions of the comprehensive peace agreement, they are equally divided between the SPLA and the SAF; the Sudan People's Liberation Army-North (SPLA-N) forces referred to in the report do not exist. This indicates clearly fabricated information by UNMIS (para. 5);

(d) It is impossible to conduct aerial bombardments against Kadugli and Eldalang and to target civilians because the two cities are under the control of the SAF and Kadugli is the capital of South Kordofan State; in addition, the protection and security of civilians and their property lies with the SAF;

(e) When reporting the killings of ethnic Arabs, the report referred to an unknown armed group, to avoid criminalizing the SPLA, although it provides all details regarding the source of the other attacks; such an attitude reflects a clear and deliberate selectivity.

12. Contrary to what was mentioned in paragraph 8 of the report, the situation inside Kadugli was normal on 5 June. The SAF did not block the major roads to Abdelaziz ElHilu's house, but had been trying to open them. All roads leading to his house were blocked by the SPLA and planted with mines. There was no fight at all; this was evidenced by the arrival of a high-level committee from Khartoum on 6 June 2011 composed of leaders from the SPLM and the National Congress Party, and there were no orders to disarm the SPLA by force, which could have led to a direct attack, which did not happen.

13. Paragraph 9 of the report alleged that the SAF attacks on Kadugli resulted in the displacement of thousands of civilians, who consequently took refuge in churches, hospitals and UNMIS compounds, but since the SAF are inside Kadugli it is illogical and unlikely that the attacks against the city come from the SAF, but from the other party, which is the SPLA.

14. Paragraph 13 refers to extrajudicial killings, which is not in line with the nature and professionalism of the SAF, which has always been very disciplined and committed to national military rules and international humanitarian law during war. The SAF conducts high-level training programmes in coordination with the International Committee of the Red Cross (ICRC), and the military law is very strict in making anyone who violates the law accountable, an example of that is in Darfur. In addition, half of the SAF forces in South Kordofan are originally from the Nuba tribe and the Commanding General of Operations in the Sudanese Army is also from the Nuba tribe.

15. Paragraph 14 mentioned false information about the killing of some civilians on 6 June, but, as mentioned previously, the fighting actually started on 7 June inside Kadugli, therefore talking about civilian casualties in need of any medical care on that day is not true.

16. The response provided in paragraph 15 above also applies to paragraph 15 of the report. Furthermore the SAF did not launch air attacks targeting any residential areas inside Kadugli.

17. The number of casualties provided in paragraph 16 of the report is based on the testimony of one person, who estimated that the number of people killed inside the SAF compound was 150. This testimony is illogical because that person should not have been released to reveal this information if such a crime had taken place inside the compound.

18. What was mentioned in paragraph 18 by some internally displaced persons, who testified that one citizen was killed in the police hospital in Kadugli, was not true. The two persons killed outside the hospital were SPLA personnel wearing civilian dress; they were killed following an exchange of fire with the police and a police officer was also shot. This incident was reported and documented in police records in Kadugli.

19. Paragraph 19 of the report contains mere allegations without any proof.

20. The SAF was not involved in any way in the killing of the UNMIS contractor who was also a member of the SPLM, as mentioned in paragraph 17. If that person was an active SPLM member, it would have been useful to interrogate him in order to obtain information instead of killing him. What was mentioned in paragraph 14 above can also be added as a response to this incident.

21. The AlFaid area was not the scene of any incidents, and the SAF was very far from the area. It witnessed some tribal tensions during the election, which were brought under control. On 14 June 2011 this area did not witness any fighting, as indicated in paragraph 20 of the report, which indicates clearly that there is deliberate confusion from the source of the information.

22. The response provided in paragraph 5 above applies to paragraph 21.

23. Paragraph 22 mentioned the existence of mass graves in Elgrood area, but the truth is that the bodies of some military members from both sides were buried. This was done by volunteers of the Sudanese Red Crescent with the support of ICRC after fulfilling all the required legal procedures.

24. The area mentioned in paragraph 23 of the report, which was described by the witness as a mass grave, is a residential and inhabited area that extends from the headquarters of the Fourteenth Division to the market area, it is not an empty area that can be used as a cemetery, since any civilian can notice it. UNMIS can also make a field visit to the area to verify the information instead of depending on the allegations of one witness.

25. What was mentioned in paragraph 25 of the report, that both the SAF and the SPLA laid anti-personnel mines, is not true. The SPLA mined areas inside Kadugli and on the road from Kadugli to Elrosairis and in the Taloudi area; these acts took place on 6 June. The SAF helped to clear the area in Hajar Elnar and also the road from Rosairis to Kadugli. The SAF also received 17 anti-tank mines, which the SPLA intended to plant in areas around Hajar Elnar. Some mines were found with a non-governmental organization called NCA, known to provide support to the SPLM.

Indiscriminate killings and use of prohibited weapons (paras. 26 and 27)

26. Paragraph 26 mentioned unconfirmed reports of the use of chemical weapons by the SAF against civilians, which is totally incorrect. The SAF is forbidden by virtue of its law and regulations from using such weapons.

27. What was mentioned in paragraph 27, about aerial bombardments targeting civilians, was also not true. The truth is that SAF attacks targeted specific areas of the SPLA using the right to self-defence and also to protect the civilians and, at the same time, to minimize the impact of SPLA attacks on civilians (only two persons were killed, which proves that this was done to the minimum). Cities with civilians like Kadugli and Aldalang were not targeted and the UNMIS compound in Kauda was not affected, instead reports were received from the Head of Sector IV about cases of fainting and hysteria, which were positively responded to by the SAF and permission was given upon UNMIS request to evacuate those persons from Kadugli. UNMIS flights from Kadugli to Kauda use helicopters that can use any runway.

28. The same response to paragraph 27 above applies to paragraph 29 of the report.

Forced disappearances, arbitrary arrests and illegal detention (paras. 30-36)

29. Paragraph 80 talked about targeting Christians, which is not true. The SAF never targeted Christians or their churches. Peaceful coexistence is one of the characteristics of this State; in addition, many of the officers in the regular forces are also Christians. Also, the SAF cannot be responsible for the disappearance of any person during the incidents and the checking of identification documents is a normal security procedure in such circumstances.

30. There is no Arab militia in Kadugli, nor looting or attacking civilians as indicated in paragraph 31 of the report. Neither before nor during the incidents.

31. Paragraph 32 of the report mentioned that the SAF raided houses to search for SPLA members or supporters. The SAF received reports about weapons in places that used to be SPLA locations, and it was the task of the SAF to verify these reports to ensure security and stability in the area.

32. Paragraph 28 above provides the answer for paragraph 33 of the report.

33. What was mentioned in paragraph 34 was not true.

34. Paragraph 37 was a repetition responded to in paragraph 21.

35. Paragraph 41 was not true. On 6 June the situation in Kadugli was very calm. Anglican and Catholic churches were never targeted. On the next day, all regular forces that were in place since that morning witnessed the beginning of fighting inside Kadugli between the SPLA (on the mountains surrounding Kadugli) and the SAF, the police and security forces, and any bombing affecting a church would have been caused by the SPLA, who were in the mountains surrounding Kadugli.

36. What was mentioned in paragraph 44 was not correct. The relationship with UNMIS was excellent before the incidents. Following the escalation of fighting, the SAF remained in regular contact with the Head of Sector IV, who visited the headquarters of the Fourteenth Division more than once and welcomed the coordination and the cooperation of the SAF in such an exceptional situation. The SAF never controlled the fuel of UNMIS; the Head of the Sector apologized to the SAF for the misunderstanding after verification of the incorrect information. The food storage facility was guarded by officers from the SAF because the supplying company had the SPLM emblem on the cars' number plates hidden by the United Nations emblem. One of the members of the company (an Indian national) tried to destroy the cars' number plates to hide this relationship. In spite of all these facts, UNMIS continued to have access to the storage facility until they took all the supplies.

37. As regards information provided in paragraph 45, about arresting and beating three personnel assisting UNMIS and the threatening of UNMIS officers by some SAF members, this is not true because, as the fighting continued, no SAF forces were stationed outside the compound and there were no checkpoints established inside the town.

38. With regard to the information in paragraph 46, stating that one national staff of UNMIS was shot: the SAF was not responsible for that. That person was hospitalized in Kadugli military hospital and transferred later to Khartoum and is now in good health.

39. Paragraph 48 of the report talked about the displacement of residents of Kaiga area to a place near UNMIS, which is also not true. Kaiga is an area north of Kadugli and logically it is impossible to move to the south while everyone is moving to the north, to Aldalang and ElObied, running away from the fighting. In addition, the SAF has no presence in Kaiga and there is no place named Um Battah military area.

40. Paragraph 50 of the report talked about the mistreatment of a UNMIS patrol composed of four members including a Jordanian major, who arrived at the headquarters of the Fourteenth Division without prior notice from Sector IV. The Head of the Sector was questioned and he stated that he was not aware of the patrol, the main purpose — given the situation in the area — was to enhance coordination and ensure the safety and security during their movement. They were taken to the nearest national monitoring officers and then released. All statements mentioned in this paragraph were fabricated.

41. What was mentioned in paragraph 52 about aerial bombardments was a repetition and never happened, neither inside Kadugli nor in the surrounding area. Fire and looting are part of the insecurity situation caused by the SPLA. The SAF never destroyed houses using bulldozers since they do not have any in Kadugli.

42. What was mentioned in paragraph 53 of the report was a legal procedure with the agreement of the Head of Sector IV. Since a number of national staff are accused of involvement in some security incidents, the SAF requested that the identity of all passengers to Wau be checked. Of the 20 national staff, only 6 were detained. Five were released, two were Christians, one was a priest and all were Nubas. The SAF received acknowledgement from the Head of Sector IV and from released persons of the good treatment received during detention. One person is still detained and will be brought before a court.

43. Paragraph 54 is a repeated paragraph, responded to in paragraph 36 above.

Forced displacement and involuntary return

44. Paragraph 37 of the report claims that villagers from the village of Umber, exclusively inhabited by Nuba tribes, were displaced. The report did not mention the displacement of citizens from the other neighbouring villages (Alfeid, Tomy, Khour-Aldilaib and Umbrimbeeta), inhabited by Arab tribes, although they were all displaced on the same day, 10 June 2011, as a result of the military confrontations that took place in the villages of Azrag, Algimaizaya and Umbrtabou. Villagers from Umbrimbeeta, Umber and part of Khour-Aldilaib who fled to Abu-Karshula were provided humanitarian assistance and returned to their villages by late June.

45. Paragraph 38 referred to the displacement of 11,000 people from Kadugli on 20 June 2011, though the displacement from Kadugli began on 6 June 2011, following the events. On 20 June 2011 those who were displaced to Alshaeir near UNMIS returned to Kadugli. As a result of the events that took place in Kadugli, on 6 June 2011 approximately 13,722 people fled on a daily basis to the area of Alshaeir near the UNMIS compound outside the city. The Humanitarian Aid Commission of the State held a coordination meeting with the United Nations agencies (World Food Programme (WFP), United Nations Children's Fund (UNICEF), World Health Organization, Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Population Fund (UNFPA)

and Office for the Coordination of Humanitarian Affairs), the International Organization for Migration (IOM), the Sudanese Committee of the Red Crescent and the Mubadiroun National Organization, and it was agreed after the meeting to provide urgent humanitarian assistance to those affected.

46. In addition to the urgent aid provided by the Government of the Sudan and the Humanitarian Aid Commission, the following was done:

- Provision of a one-month supply of food by WFP to be distributed by the Sudanese Committee of the Red Crescent
- Provision of shelter materials (rainproof blankets, cooking utensils, sheets, water containers, mosquito nets and soap) by UNICEF, IOM, UNHCR and the Joint Supply Centre, and distributed by the Sudanese Committee of the Red Crescent
- Water: provision of eight tankers from UNMIS and three plastic containers with a capacity of 3,000 cubic litres by UNICEF
- Sanitation: setting up of 150 public toilets by UNMIS, UNICEF and UNFPA, as well as two mobile clinics provided by the state ministry of health
- Security services and child protection: provision of support by UNICEF and UNHCR

47. All those services were carried out under the supervision and coordination of the Humanitarian Aid Commission in the State and with a follow-up from the United Nations agencies.

48. Following the end of military confrontations on 20 June and the return of calm to Kadugli, the government of the State started mine-clearing operations, securing and protecting civilians and their properties by the police and restoring the infrastructure to the city (water, electricity, hospitals). Trade and grocery stores reopened their doors, internally displaced persons starting to voluntarily return to their houses. Elders and those with special needs called for help to be transported, thus the government of the State provided them with the necessary means of transportation to the city.

49. Concerning paragraph 39 of the report, the Humanitarian Aid Commission, after the return of the displaced to the city, carried out a joint survey involving the United Nations agencies in the city, the national organizations and the relevant government institutions so as to determine the needs of the returnees in the city. Based on this survey, the participants agreed to provide the needed assistance and basic services as follows:

- Provision of food for 12,000 returnees for a whole month by WPF, distributed by the Sudanese Committee of the Red Crescent
- Refurbishment and rehabilitation of 63 water pumps by UNICEF and IOM, jointly implemented by the Water Corporation and Environment Sanitation of the State
- Rehabilitation of a rainwater collection station (Donki) by IOM
- Setting up of 180 toilets by UNICEF and IOM in cooperation with the Water Corporation and Environment Sanitation of the State

- Provision of non-food materials for 7,000 families by IOM and the United Nations Joint Logistics Centre (rainproof blankets, cooking hardware, sheets, water containers, mosquito nets and soap) distributed by the Sudanese Committee of the Red Crescent with the participation of the organizers
- Provision of medicine and first aid kits for seven clinics in the city by WHO and the State Ministry of Health
- A programme was developed to protect and reunite children with their families by UNICEF and the State Ministry of Social Affairs
- Absorption of the sons of displaced people in the schools of Kadugli and provision of study materials by UNICEF, Save the Children Sweden and the Ministry of Education

Conclusion

50. At the end of its comments on the report of OHCHR, the Government of the Sudan expresses its rejection and deepest resentment at the unprofessional method adopted in collecting and formulating the information concerning the events that took place in South Kordofan lately, which contradict the international standards followed in monitoring the situation of human rights. The Government of the Sudan has come under a treacherous attack against its constitutional legitimacy and its elected Government. What the SPLA/M did in South Kordofan is both a political and military coup on the elections' results held in South Kordofan, which were considered to be fair elections according to national and international observers.

51. The report is riddled with flaws and assumptions not based on logical and objective findings, which in most cases contradict the facts on the ground, as mentioned above.

52. The Government of the Sudan firmly believes that this report does not really reflect the situation of human rights in the said time and place, consequently it cannot be considered as a reference for adopting any procedures or measures based on the content of the report.

53. This report and the way it was worded does not help the Government of the Sudan to take the right measures and it does not encourage cooperation with any future procedure based on this report.